

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JORGE PAVON HERNANDEZ, et al.,

Plaintiffs,

-v-

GEMINI DINER, et al.,

Defendants.

20 Civ. 4741 (PAE) (OTW)

ORDER

PAUL A. ENGELMAYER, District Judge:

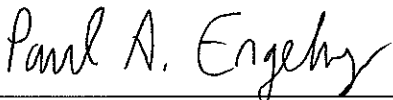
On April 6, 2022, the parties submitted a memorandum of law, Dkt. 69 (“Mem.”), and a proposed settlement agreement signed by all parties, Dkt. 69-1 (the “Agreement”), along with a damages chart, Dkt. 69-2, and a sample invoice reflecting the time spent by plaintiffs’ law firm litigating this action, Dkt. 69-3 (“Invoice”), in this Fair Labor Standards Act (“FLSA”), New York Labor Law (“NYLL”), and Hospitality Industry Wage Order action.

Parties cannot privately settle FLSA claims with prejudice absent the approval of the district court or the Department of Labor. *See Cheeks v. Freeport Pancake House, Inc.*, 796 F.3d 199, 200 (2d Cir. 2015). Rather, the parties must satisfy the Court that their agreement is “fair and reasonable.” *Velasquez v. SAFI-G, Inc.*, No. 15 Civ. 3068 (WHP), 2015 WL 5915843, at *1 (S.D.N.Y. Oct. 7, 2015). Further, “[t]he Court must . . . separately assess the reasonableness of plaintiffs’ attorney’s fees, even when the fee is negotiated as part of a settlement rather than judicially determined.” *Lliguichuzhca v. Cinema 60, LLC*, 948 F. Supp. 2d 362, 366 (S.D.N.Y. 2013).

The Court has carefully reviewed the Agreement and reserves judgment on the settlement’s approval at this time. Under the Agreement, defendants are to pay \$10,000 to

plaintiffs' counsel, CSM Legal, P.C. ("CSM"). Agreement ¶ 1(c). Plaintiff Jorge Pavon Hernandez is to receive \$10,000, and plaintiffs Alejandro Pavon and Alexis Bravo are to receive \$5,000 each. *Id.* ¶ 2. However, the parties nowhere indicate what portion of the settlement is apportioned to costs. Accordingly, to allow the Court to independently assess the reasonableness of the fee award, the Court directs the parties, **by April 22, 2022**, to submit a letter listing the fees incurred in litigating this action.

SO ORDERED.



PAUL A. ENGELMAYER
United States District Judge

Dated: April 15, 2022
New York, New York